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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,447	12/30/1999	DAVID JOHNSTON LYNCH	RCA89.894	6336

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EXAMINER
CHUNG, JASON J

ART UNIT	PAPER NUMBER
2611	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/475,447	LYNCH, DAVID JOHNSTON	
	Examiner	Art Unit	
	Jason J. Chung	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 October 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4,5* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/475,448. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application contains the additional limitations of the supervisor entering a password and the apparatus having a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 1 of 09/475,448 to include the feature noted above in order to only allow a supervisor with the correct password to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 1 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 1 of 09/475,448, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 5 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/475,448. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 5 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 6 of 09/475,448 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 5 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 6 of 09/475,448, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 7 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 09/475,448. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 7 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 9 of 09/475,448 to

include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 7 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 9 of 09/475,448, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application contains the additional limitations of the supervisor entering a password and the apparatus having a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 1 of 09/475,449 to include the feature noted above in order to only allow a supervisor with the correct password to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 1 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 1 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 5 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 5 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 4 of 09/475,449 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 5 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 6 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 7 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 7 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 8 of 09/475,449 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 7 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 8 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claim 3 fail(s) to correspond in scope with that which applicant(s) regard as the invention can be found in Paper No. 1 filed 12/30/99. In that paper, applicant has stated "in the event of conflicts between multiple instructions, further according to the conflict resolution" in lines 3 and 4, and this statement indicates that the invention is different from what is defined in the claim(s) because the wording of the invention is not understood by the examiner.

Claim Rejections - 35 USC § 102

> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 3, 4, and 5 rejected under 35 U.S.C. 102(e) as being anticipated by Casement.

Regarding claim 1, Casement discloses a TV schedule processing system for controlling access to TV programs (column 2, lines 50-52) meets the limitation of a apparatus comprising a video signal processing system for producing an output signal suitable for coupling to a display device to produce a displayed image. Casement discloses blocking programs for viewing by channel, rating, content, and/or time, where a pop-up appears asking for parental password (column 3, lines 33-43) meets the limitation of the video signal processing system having a blocking system which prevents viewing or recording of programs which exceed ratings, spending, and/or view time limits set by a supervisor who has entered a password accepted by the control system. Casement is describing figure 1 in the previously mentioned limitation rejection, which includes VCRs 32 and 36 (figure 1). Casement discloses an override system for entering instructions to temporarily override ratings (figure 2D), spending (figures 2G, 2H), and/or view time limits (figure 2E). Casement discloses locking TV programs by channel, alternatively the programs may be unlocked (column 4, lines 2-8) meets the limitation to permit specific programs to be viewed. Casement discloses a pop-up appearing warning the user of recording that is supposed to take place in a time period, if ignored the viewing remains blocked and the recording settings remain (column 5, lines 6-18) meets the limitation of a conflict resolution system for resolving conflicts between or among multiple instructions. Casement

discloses the programs may be blocked by channel, rating, content, **and/or** time (column 3, lines 33-36), which means that any combination of blocking program(s) may be used.

Regarding claim 3, the examiner examines lines 1 and 2, however the examiner does not understand lines 3 and 4. Casement discloses a status display listing channels unblocked (figure 2C). The examiner defines the term "instructions" as meaning locked or unlock. Casement discloses the corresponding time periods according to the instructions (figure 2E).

Regarding claim 4, Casement discloses television receivers 16, 18, 20, and 22 (column 2, lines 58-60 or figure 1). Casement discloses a set-top box 38 (figure 1), which meets the limitation of a cable box. Casement discloses VCRs 32 and 26 (figure 1).

Regarding claim 5, the limitations on claim 5 have been covered in claim 1 rejection. Claim 1 is an apparatus comprising of a video signal processing system, whereas claim 5 is the system contained in the apparatus. Casement discloses turning to a program that is blocked and having to enter a password to unblock the program (column 6, lines 1-3) meets the limitation on the system permitting the supervisor to unblock one specific broadcast program. . Casement discloses the programs may be blocked by channel, rating, content, **and/or** time (column 3, lines 33-36), which means that any combination of blocking program(s) may be used.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 6, and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Casement in view of Yoshida.

Regarding claim 2, Casement fails to disclose the conflict resolution system **allowing** the supervisor to select to resolve the conflicts according to either the most restrictive or least restrictive resolution. Yoshida discloses parents restricting video scenes by setting restrict data close to the restrict data of a broadcasting station to obtain consistency between the two restrictions (column 9, lines 52-59) meets the limitation of the supervisor selecting to resolve the conflicts according to either the most restrictive or least restrictive resolution. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Casement allow the supervisor to select to resolve the conflicts according to either the most restrictive or least restrictive resolution in order for the supervisor to restrict or allow video scenes close to that of the social average.

Regarding claim 6, the limitations on claim 6 have been covered in claim 2 rejection. Claim 2 is an apparatus comprising of a video signal processing system, whereas claim 6 is the system contained in the apparatus.

Regarding claim 7, the limitations on claim 7 have been covered in claim 1 rejection. Claim 1 is an apparatus containing a video signal processing system, whereas claim 7 is a processor. Casement discloses PCTVs, which inherently contains processors and the PCTVs are used in the system (column 3, lines 10-13). The limitations on resolving conflicts have been covered in claims 3 and 6 rejections.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gilboy discloses parameters of television programming determined by user inputs in US Patent # 5,465,113. Cragun discloses overriding restrictions of television programming by user inputs in US Patent # 5,973,683. Kinghorn discloses overriding restrictions of television programming by user inputs in US Patent # 6,020,882. Kim discloses overriding restrictions of television programming by user inputs in US Patent # 5,995,133. Stas discloses overriding restrictions of television programming by user inputs in US Patent # 6,025,869. August discloses overriding restrictions of television programming by user inputs in US Patent # 6,100,916. Gakumura discloses overriding restrictions of television programming by user inputs in US Patent # 6,230,320. Perlman discloses overriding restrictions of television programming by user inputs in US Patent # 6,125,259.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Chung whose telephone number is (703) 305-7362. The examiner can normally be reached on M-F, 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9700.

JJC
October 31, 2002

ANDREW FAILE
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